

LAW OFFICES  
**LEVENTHAL, SENTER & LERMAN P.L.L.C.**  
SUITE 600  
2000 K STREET, N.W.  
WASHINGTON, D.C. 20006-1809

**ORIGINAL**

NORMAN P. LEVENTHAL  
MEREDITH S. SENTER, JR.  
STEVEN ALMAN LERMAN  
RAUL R. RODRIGUEZ  
DENNIS P. CORBETT  
BRIAN M. MADDEN  
BARBARA K. GARDNER  
STEPHEN D. BARUCH  
SALLY A. BUCKMAN  
NANCY L. WOLF  
DAVID S. KEIR  
DEBORAH R. COLEMAN  
NANCY A. ORY  
WALTER P. JACOB  
ROSS G. GREENBERG  
H. ANTHONY LEHV  
JOHN D. POUTASSE  
CHRISTOPHER J. SOVA  
PHILIP A. BONOMO  
JUAN F. MADRID

OF COUNSEL  
MARLA R. WOLFE

February 22, 2000

TELEPHONE  
(202) 429-8970

TELECOPIER  
(202) 293-7783

WWW.LSL-LAW.COM

RECEIVED  
FEB 22 2000  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

WRITER'S DIRECT DIAL  
202-416-1098

WRITER'S DIRECT FAX  
202-429-4603

WRITER'S E-MAIL  
SILES@LSL-LAW.COM

**BY HAND**

**DOCKET FILE COPY ORIGINAL**

Magalie Roman Salas, Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W., Room TW-B204  
Washington, D.C. 20554

**Re: Digital Audio Broadcasting Systems and Their Impact on the Terrestrial  
Radio Broadcast Service  
(MM Docket No. 99-325)**

Dear Ms. Salas:

Transmitted herewith on behalf of Grupo Televisa, S.A., are an original and nine (9) copies of its Reply Comments on the *Notice of Proposed Rule Making* in the above-referenced proceeding. Diskettes containing these Reply Comments are being simultaneously submitted to William J. Scher, and to International Transcription Service, Inc.

In connection with its representation of Grupo Televisa, S.A., Leventhal, Senter & Lerman P.L.L.C. has registered as a foreign agent under the Foreign Agents Registration Act.

Respectfully submitted,



Sarah R. Iles

Enclosures

No. of Copies rec'd 019  
List A B C D E

BEFORE THE

# Federal Communications Commission

WASHINGTON, D.C. 20554

In the Matter of

Digital Audio Broadcasting Systems  
And Their Impact On the Terrestrial Radio  
Broadcast Service

)  
)  
)  
)  
)

MM Docket No. 99-325

To: The Commission

RECEIVED  
FEB 22 2000  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

## REPLY COMMENTS OF GRUPO TELEVISA, S.A.

### INTRODUCTION

Grupo Televisa, S.A. ("Televisa"), a Mexican corporation, by its attorneys and pursuant to Section 1.415 of the Commission's rules, 47 C.F.R. § 1.415, hereby replies to comments filed in response to the Commission's Notice of Proposed Rulemaking in the above-captioned proceeding.<sup>1</sup> In Televisa's initial comments,<sup>2</sup> it opposed the Commission's proposal to implement digital audio broadcasting ("DAB") technology by any means affecting the 82-88 MHz band. Such use would interfere with Channel 6 broadcasters, including San Diego Fox affiliate XETV, a Mexican station owned by Televisa through subsidiaries. Usurpation of the Channel 6 band would also violate the United States' international obligations regarding spectrum usage along its border with Mexico.

---

<sup>1</sup> Digital Audio Broadcasting Systems And Their Impact On the Terrestrial Radio Broadcast Service, MM Docket No. 99-325 (released Nov. 1, 1999).

<sup>2</sup> Comments of Grupo Televisa, S.A. (filed Jan. 24, 2000) ("Comments").

## **DISCUSSION**

Televisa urges the Commission to consider the overwhelming opposition to its alternative spectrum reallocation proposal that would convert Channel 6 to DAB use. The vast majority of comments either oppose the usurpation of the 82-88 MHz band because of its adverse impact on present Channel 6 broadcasters, or express a preference for use of In-Band On-Channel (“IBOC”) technology for the DAB conversion.

Televisa wishes to reemphasize one crucial element of its Comments: use of the 82-88 MHz band within 400 kilometers of the U.S.-Mexican border is governed by international treaties to which the U.S. is a signatory.<sup>3</sup> Although this point was raised only by Televisa because of its unique circumstances as a Mexican broadcaster, this issue is a vital one that must be considered by the Commission. U.S. obligations under negotiated treaties and international law are binding and must be respected.

As noted, many commenters in this proceeding join Televisa in strongly opposing reallocation of the 82-88 MHz band to DAB. Like Televisa, U.S. broadcasters protest the effects of the reallocation plan on Channel 6 licensees’ transition to digital television (“DTV”). For example, the Association of America’s Public Television Stations (“APTS”) and Hearst-Argyle Television (“Hearst-Argyle”) note that the reallocation plan would thwart Channel 6 licensees

---

<sup>3</sup> Agreement Between the United States of America and the United Mexican States Concerning Assignment of Television Channels Along United States-Mexican Border, TIAS 5043 (Apr. 18, 1962) (assigning exclusive use of Channel 6 to Mexico in five communities in the U.S.-Mexico border region); Memorandum of Understanding Between the Federal Communications Commission of the United States of America and the Secretaria de Comunicaciones y Transportes of the United Mexican States Related to the Use of the 54-72 MHz, 76-88 MHz, 174-216 MHz and 470-806 MHz Bands for the Digital Television Broadcasting Service Along the Common Border (July 22, 1998) (reiterating the 1962 channel allotments).

who want to return to their NTSC allotments after completion of the DTV changeover.<sup>4</sup> Further, the National Association of Broadcasters (“NAB”), Hearst-Argyle, and Association for Maximum Service Television, Inc./Certain Channel 6 Licensees (“MSTV”) agree with Televisa’s concern regarding the timing of the reallocation plan, since Channel 6 will not be available for DAB until after the DTV transition.<sup>5</sup> Finally, like Televisa, APTS and Hearst-Argyle object to the administrative uncertainty and fundamental unfairness resulting from the Commission’s conflicting positions regarding Channel 6’s designation as part of the core spectrum for digital television.<sup>6</sup>

Some commenters provide additional reasons which bolster Televisa’s opposition to the reallocation of Channel 6 spectrum. MSTV, Hearst-Argyle, and Forum Communications Company all emphasize the unique attributes of the Channel 6 spectrum that make it well-suited to television.<sup>7</sup> NAB expresses doubt about the technical feasibility of using a smaller core spectrum for DTV.<sup>8</sup> In addition, MSTV and USA Digital Radio, Inc. question whether the 82-88

---

<sup>4</sup> Comments of Association of America’s Public Television Stations, at 3-4 (filed Jan. 24, 2000; resubmitted Jan. 27, 2000) (“APTS Comments”); Comments of Hearst-Argyle Television, Inc., at 5-6 (filed Jan. 24, 2000) (“Hearst-Argyle Comments”).

<sup>5</sup> Comments of National Association of Broadcasters, at 5 (filed Jan. 24, 2000) (“NAB Comments”); Hearst-Argyle Comments at 5; Comments of Association for Maximum Service Television, Inc. and Certain Channel 6 Licensees, at 8-9 (filed Jan. 24, 2000) (“MSTV Comments”).

<sup>6</sup> APTS Comments at 3; Hearst-Argyle Comments at 6-7.

<sup>7</sup> MSTV Comments at 3-5; Hearst-Argyle Comments at 3-4; Comments of Forum Communications Company, Inc., at 2, Technical Statement (filed Jan. 24, 2000)

<sup>8</sup> NAB Comments at 5.

MHz band can adequately accommodate existing radio broadcast stations in any event.<sup>9</sup>

A wide variety of commenters also state their support for implementation of DAB using an IBOC system. Reasons for their choice of IBOC vary, but they uniformly prefer development of a viable IBOC system over use of the 82-88 MHz band. Commenters expressing this view include: the NAB; Gannett Co., Inc.; Wright Broadcasting Systems, Inc.; USA Digital Radio, Inc.; Lucent Digital Radio, Inc.; and Infinity Broadcasting Corporation.<sup>10</sup>

Support for DAB use of the 82-88 MHz band is slim. Only one major industry organization, National Public Radio ("NPR"), expressed support for converting the Channel 6 spectrum to DAB.<sup>11</sup> However, NPR's support of the reallocation plan is motivated entirely by its desire for more spectrum for public radio use, because the Channel 6 spectrum is adjacent to radio frequencies on which its members currently broadcast.

### **CONCLUSION**

Comments in this proceeding indicate widespread opposition to the reallocation of the Channel 6 spectrum to DAB. Like Televisa, the vast majority of commenters prefer that the transition to DAB be accomplished without converting the 82-88 MHz band to radio use. Televisa also urges the Commission to respect the United States' treaty obligations to refrain

---

<sup>9</sup> MSTV Comments at 7-8; Comments of USA Digital Radio, Inc., at 20-21 (filed Jan. 24, 2000) ("USA Digital Radio Comments").

<sup>10</sup> See NAB Comments at 2-4; Comments of Gannett Co., Inc., at 6-8 (filed Jan. 24, 2000); Comments of Wright Broadcasting Systems, Inc., at 6-7 (filed Jan. 24, 2000); USA Digital Radio Comments; Comments of Lucent Digital Radio, Inc. (filed Jan. 24, 2000); Comments of Infinity Broadcasting Corporation (filed Jan. 24, 2000).

<sup>11</sup> See Comments of National Public Radio, Inc. (filed Jan. 24, 2000).

from interference with Channel 6 in the U.S.-Mexico border region. For these reasons and the others set forth herein, Televisa urges the Commission to implement DAB using means that will not interfere in any way with the 82-88 MHz band.

Respectfully submitted,

**GRUPO TELEVISA, S.A.**

By: Barbara K. Gardner  
Norman P. Leventhal  
Barbara K. Gardner  
Sarah R. Iles

Leventhal, Senter & Lerman P.L.L.C.  
2000 K Street, N.W.  
Suite 600  
Washington, DC 20006-1809  
(202) 429-8970

February 22, 2000

Its Attorneys